

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)	
)	
Petitioner,)	
)	
v.)	No. 16-3630 RE
)	
)	
HOWARD J. VANBOOVEN, JR.)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

On or about May 11, 2017, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Howard J. Vanbooven, Jr.*, No. 16-3630 RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Howard J. Vanbooven, Jr.'s real estate broker license (license no. 2006034965) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2, (16), and (19) RSMo.¹

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled complaint and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on August 9, 2017, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission were present throughout

¹ All statutory references are to the Revised Statutes of Missouri 2000, as amended, unless otherwise indicated.

the meeting, except Sharon Keating and Rosemary Vitale. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Sara Harrison. Respondent having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Howard J. Vanbooven, Jr.*, Case No. 16-3630 RE, issued May 11, 2017, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent Howard J. Vanbooven, Jr. as a real estate broker, license number 2006034965. Respondent's broker license was not current at all times relevant to this proceeding. On June 30, 2016, Respondent's broker license expired.

II.

CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the properly pled complaint and Default Decision issued by the Administrative Hearing Commission dated May 11, 2017, in *Missouri Real Estate Commission v. Howard J. Vanbooven, Jr.*, Case No. 16-3630 RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated May 11, 2017, 2017, Respondent's real estate broker license, number 2006034965, is subject to disciplinary action by the Commission pursuant to § 339.100.2 (16), and (19) RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

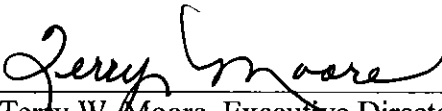
ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate broker license of Howard J. Vanbooven, Jr. (license no. 2006034965) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form, if Respondent has not already done so.

The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 339, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 14th DAY OF August, 2017.

MISSOURI REAL ESTATE COMMISSION



Terry W. Moore, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION)

Petitioner,)

v.)

HOWARD J. VANBOOVEN, JR.,)

Respondent,)

No. 16-3630

DEFAULT DECISION

On October 18, 2016, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail on December 22, 2016.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo 2016, we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on May 11, 2017.

RECEIVED

JUN 14 2017

MREC

A handwritten signature in cursive script, reading "Sreenivasa Rao Dandamudi", is written over a horizontal line.
SREENIVASA RAO DANDAMUDI
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

OCT 18 2016

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI REAL ESTATE COMMISSION)

3605 Missouri Boulevard)

P.O. Box 1339)

Jefferson City, MO 65102,)

Petitioner,)

v.)

HOWARD J. VANBOOVEN, JR.,)

28 Sunset Lane)

O'Fallon, MO 63366)

Respondent.)

Case #: _____

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JUN 14 2017

MREC

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through the Attorney General of the State of Missouri, and for its cause of action against Respondent, states the following:

1. The MREC is an agency of the State of Missouri, created and established pursuant to Section 339.120, RSMo,¹ for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers, and Escrow Agents.

¹ All statutory citations are to the 2000 Revised Statutes of Missouri, as amended, unless otherwise noted.

2. Respondent, Howard J. Vanbooven, Jr. ("Vanbooven"), holds a license as a real estate broker, license no. 2006034965, which expired on June 30, 2016.
3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045, and 339.100, RSMo.
4. Vanbooven received a letter dated February 17, 2016 from MREC that identified violations found during an audit.
5. The audit occurred on November 2, 2015.
6. The letter requested that Vanbooven submit written correspondence and proof that: he placed a sign outside of the business, he posts his business hours or is open during normal business hours, he was no longer operating under the fictitious name 'Vanbooven Realty' or had registered 'Vanbooven Realty' with the Missouri Secretary of State, and submit a copy of his broker's license within thirty (30) days.
7. MREC did not receive a response or any of the required submissions in response to the February 17, 2016 letter.
8. MREC sent another letter on March 30, 2016 stating that it did not receive a response from the February 17, 2016 letter.
9. The March 30, 2016 letter also put Vanbooven on notice that he had 30 days to respond under 20 CSR 2250-4.030 and that if he did not respond, his license would be referred for discipline.
10. MREC did not receive a response to its March 30, 2016 letter.
11. Vanbooven did not respond to the March 30, 2016 letter.

12. Section 339.100.2, RSMo, setting forth the grounds for discipline, provides in relevant part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

...

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860*, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

...

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

13. Vanbooven's failure to post his business hours and/or to be open during usual business hours was a violation of 20 CSR 2250-8.010(1), which states:

Every resident broker, except those who have placed their licenses on inactive status or those not actively engaged in real estate business, shall maintain a regularly established place of business in this state, which shall

be open to the public during usual business hours or at regular stated intervals. No salesperson may be associated with a broker not maintaining a regularly established place of business or a broker not actively engaged in the real estate business. This rule does not apply to a broker-salesperson or to broker partners, broker-associates or broker-officers of a firm which maintains a regular place of business.

14. Vanbooven's failure to place a sign outside of the business was a violation of 20 CSR 2250-8.010(2), which states:

Every resident broker, except those who have placed their licenses on inactive status or those not actively engaged in real estate business, shall maintain a regularly established place of business in this state, which shall be open to the public during usual business hours or at regular stated intervals. No salesperson may be associated with a broker not maintaining a regularly established place of business or a broker not actively engaged in the real estate business. This rule does not apply to a broker-salesperson or to broker partners, broker-associates or broker-officers of a firm which maintains a regular place of business.

15. Vanbooven's use of a fictitious business name without properly registering it with the Secretary of State is a violation of 20 CSR 2250-4.030, which states:

Any broker doing business under any name other than the broker's legal name or any entity doing business under any name other than the name registered with the secretary of state, shall first comply with the provisions of sections 417.200-417.230, RSMo on the registration of fictitious names and shall furnish the commission a copy of the registration within ten (10) days of receipt of the official registration from the secretary of state.

16. Vanbooven failure to be able to display his license on request is a violation of 20 CSR 2250-8.060, which states:

Every broker shall maintain his/her license and the licenses of all associates in the regular place of business or branch office(s). The licenses shall be displayed to any member of the public on request.

17. Vanbooven's failure to respond to the MREC's letters is a violation of 20

CSR 2250-8.170(1), which provides in relevant part:

Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

Cause exists to discipline Vanbooven's licenses pursuant to § 339.100.2(15), RSMo, because Vanbooven violated 20 CSR 2250-8.010(1) and (2), 20 CSR 2250-4.030, 20 CSR 2250-8.060, and 20 CSR 2250-8.170(1)

18. Section 339.040, RSMo, establishes the criteria that must be established to hold a real estate broker's license and states, in relevant part:

1. Licenses shall be granted only to persons who present, and corporations, . . . whose officers, . . . present, satisfactory proof to the commission that they:

.....

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

19. Vanbooven's failure to respond evidence that Vanbooven is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public. Therefore, there would be grounds under § 339.040.1, RSMo, for the MREC to deny a license to Vanbooven, and thus provides cause for discipline under § 339.100.2(16), RSMo.

20. Vanbooven's conduct, as alleged in this Complaint, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad

faith, incompetence, misconduct, and/or gross negligence, providing cause for discipline under § 339.100.2(19), RSMo.

WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to sections 621.015 to 621.205, RSMo, and thereafter issue its findings of fact and conclusions of law that the Petitioner may discipline Respondent Vanbooven's real estate broker license under Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRIS KOSTER
Attorney General

/s/ Sara H. Harrison, #64893

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